



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
07/580,246	09/10/1990	DONALD R. HUFFMAN	7913Z	5441

7590

01/17/2002

SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

EXAMINER

HENDRICKSON, STUART L

ART UNIT

PAPER NUMBER

1754

43

DATE MAILED: 01/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

01/580246

Applicant(s)

Huffman

Examiner

Heidi K. Smith

Group Art Unit

1181

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 7/18/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 45-77, 79-180 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 85, 90, 94, 95 is/are allowed.
- ☒ Claim(s) 45-77, 79-84, 86-89, 91-93, 96-180 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachments

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 41 ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

Art Unit: 1754

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The status letter filed 7/18/00 is noted. The letter of March 25, 1994 discussing withdrawal of the Final Rejection mailed 11/30/93 is noted. The letter and amendment dated April 22, 1997- which discusses the nonentry of the amendment filed March 17, 1997- has not been entered. It appears that applicants should submit an amendment canceling claims 82 and 87 as a result of the interference decision along with possibly claims 52 and 79. The IDS recently filed (Fang reference) is noted.

The rejections, comments and arguments made in the withdrawn rejection of 11/30/93 are hereby reinstated, and they are incorporated herein by reference. To summarize, the rejections are:

- objection to specification for 'macroscopic quantities'.
- '112 first paragraph for 'macroscopic quantities'.
- '112 second paragraph for 2 cases of indefinite language.
- '112 fourth paragraph.
- '101 as being naturally occurring.
- '102/103 in view of Kroto/Curl.
- '102 over Kratschmer.

The following rejections are added:

Claim 76 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fritsch article.

The article on pg. 328 teaches brown diamonds with reddish tinge. No difference is seen.

Art Unit: 1754

Claim 76 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sinkankas.

The reference teaches a 'brownish-violet' diamond on pg. 116. No difference is seen.

Claim 76 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no support for the allotrope per se to be the color claimed. It is believed to be the solution in benzene which is the color claimed.

Claim 76 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim recites a color, but this is unclear due to the fact that color is a perception in the eye of the beholder and thus varies, especially given individual colorblindness etc. Perhaps an adsorption spectrum should be used to characterize the material.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.



Stuart Hendrickson
Primary examiner Art Unit 1754